

PROCEDURES FOR
PRELIMINARY INQUIRY OFFICERS

1. Preliminary Inquiry Officer (PIO) will conduct an investigation by executing the following steps substantially in the order presented below. The report of investigation will consist of the following:

a. NAVPERS 1626/7 (Rev. 12-88), Report and Disposition of Offense(s);

b. Investigator's Report;

c. Statements or summaries of interviews with all witnesses (sworn statements will be obtained if practicable);

d. Statements of the accused's supervisor(s), sworn if practicable;

e. Originals or copies of documentary evidence;

f. If the accused waives all rights, a signed sworn statement by accused; or a summary of interrogation of the accused, signed and sworn to by the accused; or both; and

g. Any additional comments by the investigator as desired.

2. Objectives

a. The primary objective of the PIO is to collect all available evidence pertaining to the alleged offense(s). As a first step, the PIO should be familiar with those paragraphs of the Manual for Courts-Martial (MCM), 1995, describing the offense(s). Each of the common offenses is described in Part IV, MCM, 1995. Within each paragraph is a section entitled "elements," which lists the elements of proof for that offense. The PIO must be careful to focus on the correct variation. The elements of proof should be copied and used as a guide in searching for the relevant evidence. The PIO is to consider everything which tends to prove or disprove an element of proof.

b. The secondary objective of the PIO is to collect information about the accused which will aid the Commanding Officer, Naval Station Bremerton, in making a proper disposition of the case, and in the event nonjudicial punishment is to be imposed, what the appropriate punishment, if any, should be. Items of interest to the Commanding Officer, Naval Station Bremerton, include: the accused's currently-assigned duties;

evaluation of performance, attitudes, and ability to get along with others, and particular personal difficulties or hardships which the accused is willing to discuss. Information of this sort is best reflected in the statements of the supervisor(s) of the accused, peers, and the accused him/herself.

3. Interrogate the Witnesses First

a. In most cases, a significant amount of the information must be obtained from witnesses. The person initiating the report and the persons listed as witnesses are starting points. Other persons having relevant information may be discovered during the course of the investigation.

b. The PIO should not begin by interrogating the accused first. The accused is the person with the greatest motive for lying or otherwise distorting the truth, if, in fact, he/she is guilty. Before encountering the accused, the interrogator should be thoroughly prepared; therefore, meeting with the accused should be done last. Even when the accused confesses guilt, the PIO should collect independent evidence corroborating the confession.

c. Witnesses who have relevant information to offer should be requested to make a sworn statement. Where a witness is interviewed by telephone and is unavailable to execute a sworn statement, the PIO must summarize the interview and certify it to be true.

d. In interviewing a witness, the PIO should seek to elicit all relevant information. One method is to start with a general survey question, asking for an account of everything known about the subject of inquiry, and then following up with specific questions. After conversing with the witnesses, the PIO should assist in writing out a statement that is thorough, relevant, orderly, and clear. The substance must always be actual thoughts, knowledge, or beliefs of the witness; the assistance of the PIO must be limited to helping the witness express him/herself accurately and effectively in a written form. The witness may write the statement utilizing enclosure (3).

e. If, at any time, it appears a witness may also be suspected of a criminal offense, the PIO should immediately stop the interview and advise the witness of his/her rights under UCMJ Article 31(b). Refer to paragraphs 6b and 7 below for specific procedures relating to rights advisement and waiver.

4. Collect the Documentary Evidence. Documentary evidence such as Shore Patrol reports, log entries, watchbills, service record entries, local instructions, or organization manuals should be

obtained. The original or a certified copy of relevant documents should be attached to the report. As an appointed investigator, the PIO has the authority to certify copies to be true by subscribing the words "CERTIFIED TO BE A TRUE COPY" with his/her signature.

5. Collect the Real Evidence. Real evidence is a physical object, such as the knife in an assault case or the stolen camera in a theft case, etc. Before the PIO seeks out the real evidence, if any, he/she must speak with the Discipline Officer or the Chief Master-at-Arms. If the item is too big to bring to a nonjudicial punishment hearing or into a courtroom (for instance, the wrecked government bus in a "damaging government property" case), a photograph of the bus should be taken. If real evidence is already in the custody of a law enforcement agency, it should be left there unless otherwise directed. The PIO should inspect it personally.

6. Advise the Accused of His/Her Rights Interrogation

a. Before questioning the accused, the PIO should also have the accused sign the acknowledgment line on the front of the Report and Disposition of Offense(s) (NAVPERS 1626/7 (Rev. 12-88)) and initial any additional pages of charges that may be attached. The PIO should sign the witness line on the front of NAVPERS 1626/7 (Rev. 12-88), next to the accused's acknowledgment signature.

b. Suspect's Rights Acknowledgment/Statement, (enclosure (4)) has been provided to ensure that the PIO correctly advises the accused of his/her rights before asking any questions. Completing this statement must be the first order of business when meeting with the accused. Only one witness is necessary and that witness may be the PIO.

7. Interrogate the Accused

a. The accused may be questioned only if he/she has knowingly and intelligently waived all constitutional and statutory rights. Such waiver, if made, should be recorded on the Suspect's Acknowledgment Statement, (enclosure (4)). If the accused asks questions regarding the waiver of these rights, the PIO must decline to answer or give any advice on that question. The decision must be left to the accused. Other than advising the accused of the rights as stated in paragraph 6b above, the PIO should never give any other form of legal advice to the accused. If the accused desires a lawyer, Judge Advocates at Naval Legal Service Office, Northwest, are available to give legal advice.

b. If the accused waived all rights, the PIO may commence questioning. The PIO should begin in a low-key manner so as not to disquiet the accused. Once he/she has spoken their piece, the PIO may probe with pointed questions and confront the accused with inconsistencies in the story or contradictions with other evidence. The PIO should, with respect to his/her own conduct, keep in mind that if a confession is not "voluntary," it cannot be used as evidence. To be admissible, a confession or admission which was obtained through the use of coercion, unlawful influence, or unlawful inducement is not voluntary. The presence of an impartial witness during the interrogation of the accused is recommended.

c. If the accused is willing to make a written statement, ensure the accused acknowledged and waived all rights. While the PIO may help the accused draft the statement, he/she must be meticulous in refraining from putting words in the accused's mouth. If the draft is typed, the accused should read it over carefully and be permitted to make any desired changes. All changes should be initialed by the accused and witnessed by the PIO.

d. Oral statements, even though not reduced to writing, are admissible into evidence against a suspect. If the accused does not wish to reduce his/her statement to writing, the PIO must attach a certified summary of the interrogation to the report. Where the accused has reduced less than all of the statement to writing but has made a written statement, the PIO must add a certified summary of matters omitted from the accused's written statement.

e. If the accused initially waives all rights, but during the interview indicates a desire to consult with counsel or to stop the interview, the PIO will scrupulously adhere to such request and terminate the interview. The interview may not resume unless the accused approaches the PIO and indicates a desire to once again waive all rights and submit to questioning. The accused must be read his/her rights again, and the PIO must ask the accused if he/she desires to waive these rights once again.